IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

WP(C).No. 31706 of 2006(Y)

PETITIONER:

BEENA PRASAD,
KAVUKATTU HOUSE, VELOOR P.O.,KOTTAYAM.

BY ADV. SRI.GEORGE JOSEPH (ITTANKULANGARA)

RESPONDENTS:

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1. KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.
KOTTAYAM, REPRESENTED BY ITS GENERAL MANAGER.

2. MANAGER, KOTTAYAM DISTRICT CO-OPERATIVE
BANK LTD., THIRUVATHUKKAL BRANCH,
VELOOR P.O., KOTTAYAM.

3. MRS.SREELATHA, EXECUTIVE OFFICER,
ARBITRATION AND EXECUTION SECTION,
DIST. CO-OPERATIVE BANK LTD., KOTTAYAM.

BY SRI.T.R.RAMACHANDRAN NAIR, SC, FOR R1

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

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W.P.(C) No. 31706 of 2006 (Y)

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Dated this the 30th day of November, 2006

J U D G M E N T

The writ petitioner availed a loan of Rs.2,00,000/- with an interest at the rate of 18% per annum, from the second respondent, Kottayam District Co-operative Bank, Thiruvathukkal Branch, Veloor, Kottayam, on 17/06/1999. There was default in repayment. Therefore, arbitration proceedings were initiated before the Assistant Registrar/Arbitrator, Kottayam District Co-operative Bank, Kottayam, for recovering the amount due to the second respondent bank and an award dated 24/08/2005 in A.R.C.22/2002 was passed. Though, the same was challenged before the Kerala Co-operative Tribunal, Thiruvananthapuram, in short, 'the Tribunal', through Appeal Petition No.53/2005, it was dismissed, rejecting the contentions raised by the writ petitioner. Hence, this writ petition.

2. The prayer of the writ petitioner to quash Exhibit P7 judgment of the Tribunal, on the ground that the amounts already remitted by the writ petitioner were not considered, either by the Arbitrator or by the Tribunal.

3. The learned Standing Counsel for respondents 1 and 2, Mr.T.R.Ramachandran Nair, submits that an amount of Rs.1,15,000/- was remitted on 21/02/2006, as per the direction of the Tribunal. The same would be adjusted, by respondents 1 and 2, towards the total amount due to the respondent bank. The writ petitioner, however, submits that there are other remittances also. It is for respondents 1 and 2 to make necessary adjustments on the remittances made.

4. However, the prayer of the writ petitioner is that she may be given the facility of one time settlement scheme and, the interest, as awarded by the Arbitrator, may be reduced from that of 20% and a normal interest may be realised. The Standing Counsel for respondents 1 and 2 submits that the loan was availed for construction of the house and it cannot be treated as that of agricultural loan.

5. Without expressing any opinion in the matter, I direct the petitioner to file an application before the first respondent, for an one time settlement, under the existing scheme, within one week from today. The first respondent shall, on the receipt of the said application, extend all the facilities of

one time settlement scheme to the writ petitioner and, realise the balance amount due, after adjusting the amounts so far remitted by the petitioner. This shall be done within one month from the date of receipt of the application of the writ petitioner.

The writ petition is closed as above.

(J.M.JAMES)
Judge

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